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| 09/864,512   | 05/24/2001  | Emilio Ramon Goitiandia | P/189-151           | 2441             |
| 2352   | 7590        | 03/11/2004              | EXAMINER            |                  |
| OSTROLENK FABER GERB & SOFFEN<br>1180 AVENUE OF THE AMERICAS<br>NEW YORK, NY 100368403 |             |                         | NGUYEN, SON T       |                  |
|  |             |                         | ART UNIT            | PAPER NUMBER     |
|  |             |                         | 3643                |                  |

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864,512

Applicant(s)

GOITIANDIA, EMILIO RAMON

Examiner

Son T. Nguyen

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3643

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/1/03.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,3-6,8,9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. (US 4,056,221) in view of Anderson et al. (US 6,234,944B1).

For claim 1, Piltz et al. disclose a laminated package or box that is capable of being use as a cat litter box comprising a template of a rigid material base 10 having opposite surfaces and an impermeable laminar covering of plastic material 11,12 extending over the surfaces of the base; the base being shaped to define a bottom 1 with side edges (at fold lines 7) and folded up side walls 3-5 attached to the side edges of the bottom, the base including fold lines 7 at which is folded to define the side walls, the side walls having outer edges (edges running parallel to ref. 7, such as from ref. 6 to ref. 6 on the right and left side of fig. 1) opposite the fold lines; the laminar covering comprising flexible sheets (refs. 11,12 are transparent plastic laminar films which are flexible sheets and are impermeable to liquid) extending over the surfaces of the base (see figs. 5 & 6), the sheets having length and width dimensions greater than the base and marginal regions that project beyond edges of the side walls (as shown in figs. 5,6) when the side walls are not folded up (see fig. 4), the marginal regions overlap and the being joined together enclosing the base in a close-fitting manner (see figs. 5,6,8-10) , wherein the sheets are not adhered to the base (col. 2, lines 43-50); the base and side

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walls being so shaped that before folding up the side walls, there are spaces 8 between adjacent side walls, the sheets extending over the spaces (as shown in fig. 4, near refs. 17,8) such that when the side walls are folded up on the respective fold lines 7, between each two adjacent walls there is a zone of the laminated sheets (as shown in figs. 8-10) which is folded for defining closure flaps 8a,8a',8a'' to hold the folded up side walls. In addition, col. 4, lines 10-35, teaches lamination of the sheets at the edges by heating oven and press roller assembly. Edges are considered where ref. 10 does not exist, such as in fig. 5, edges are where refs. 14,15,13 exist). However, Piltz et al. are silent about the sheets are being joined together by heat-welding. Heat welding to seal two layers of material at their edges is a notoriously well known process in lamination. For example, Anderson et al. teach in fig. 3 two flexible sheets 18,30 being heat welded at their marginal regions to secure a pad therein (col. 4, lines 6-7). Therefore, it would have been an obvious substitution of functional equivalent to substitute the lamination of the binders, foil and sheets method of Piltz et al. with heat-welding method of Anderson et al., since it would perform the same function; i.e. to connect two film sheets together. In addition, heat welding is a notoriously well known process to join two elements together; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the heat welding process as taught by Anderson et al. to join the two flexible sheets of Piltz et al. at their edges, since it is a notoriously well known process to join two elements together.

For claim 3, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose that the base is made out of rigid cardboard (col. 1, lines 6-12).

For claim 4, similar to the above explanation, Piltz et al. disclose a base 10 including a rectangular bottom 1 with four sides 2-5 (col. 3, lines 1-3, Piltz state that the assembly as a whole 16 can be rectangular which means that the base and its four sides and the laminating sheets are rectangle), the base having a respective rectangular panel at each of the four sides, each panel being joined at a respective fold line 7 with the respective side of the base such that when the panels are folded up around the fold lines, a box shape is formed (as shown in fig. 7), each of the panels being separated from adjacent ones by an open space 8 which is reduced and closed when the panels are folded up around the fold lines, the base having opposite surfaces; an impermeable laminar cover comprising two sheets 11,12 extending over both surfaces of the base and are not adhered to the base (see figs. 5,6 and col. 2, lines 43-50), the sheets having a greater length and width dimension than the base and having peripheral margins which extend beyond the panels and are joined together defining a rectangular shape (see fig. 4 and col. 3, lines 1-3 for rectangular shape), the sheets having zones (fig. 4, the zones are near refs. 8,17) extending over the spaces between adjacent panels and being so shaped that when the panels are folded up, closing the spaces between adjacent panels, the zones of laminar covering that were over the spaces are folded to form a respective closure flap 8a,8a',8a'' between the adjacent walls (see figs. 8-10). In addition, col. 4, lines 10-35, of Piltz teach lamination process by use of a heating oven. However, Piltz et al. are silent about the peripheral margins being joined by heat-welding. Heat welding to seal two layers of material is a notoriously well known process for joining two elements. For example, Anderson et al.

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teach in fig. 3 two flexible sheets 18,30 being heat welded at their marginal regions to secure a pad therein (col. 4, lines 6-7). Therefore, it would have been an obvious substitution of functional equivalent to substitute the binder method of Piltz et al. with heat-welding method of Anderson et al., since it would perform the same function; i.e. to connect two film sheets together. In addition, heat welding is a notoriously well known process to join two elements together; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the heat welding process as taught by Anderson et al. to join the two flexible sheets of Piltz et al. at their edges, since it is a notoriously well known process to join two elements together.

For claim 5, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the laminar covering is of a plastic material (col. 2, lines 29-30 & 63).

For claim 6, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose that the base is made out of rigid cardboard (col. 1, lines 6-12).

For claim 8, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the sheets 11,12 are attached at the marginal edges (figs. 5,6 near refs. 14,15 and figs. 8-10) and along an inner angle line (figs. 4,7 at refs. 17,8) that coincides with the contours of the space between adjacent side walls and also along a diagonal line (fig. 7, right at the corner near refs. 8a,1a) which crosses each space between adjacent side walls, with the attachments defining zones in the sheets that, when the side walls are folded up at the fold lines, define flaps 8a,8a',8a'' which are foldable against the adjacent walls to be adhered there (see fig. 7 which shows ref. 8a adhering to an adjacent wall 2a).

For claim 9, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the laminar covering is of a plastic material (col. 2, lines 29-30 & 63).

3. **Claims 2,7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. as modified by Anderson et al. as applied to claim 1 above, and further in view of Smith (US 3,684,155). For both claims, Piltz as modified by Anderson et al. are silent about a double fold line extending transversely across the bottom of the base and across two of the side walls so that the box may be folded over along the double fold line. Smith teaches a plurality of panels 10,10',18',13',18,13 folded along a plurality of fold lines 11',16',16,17 to form a box (as shown in fig. 1), one of the plurality of fold lines is a double fold line 11' extending transversely across a bottom 10,10' of the box and two of side walls 13',13 of the box so that the box can be folded over along the double fold line for compact storage (as shown in fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a double fold line as taught by Smith across the bottom and side walls of the box of Piltz et al. as modified by Anderson et al. in order to allow compact storage of the box.

4. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. as modified by Anderson et al. as applied to claims 4,8,9 above, and further in view of Wu et al. (US 5,575,418). Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the flaps 8a' are folded against the exterior of the walls (see fig. 9 and col. 3, lines 27-31). However, they do not use an adhesive element to hold the flaps onto the walls. Wu et al. teach paperboard package system in which they employ glue 84 to hold corner flap (near ref. 72) of one panel 72 onto another panel 78 to form

a box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ glue as taught by Wu et al. as an alternative method to that of the heat sealing to hold the flaps onto the side walls of the box of Piltz et al. as modified by Anderson et al. since glue will be more safe and less costly than using a heat sealing device.

### ***Response to Arguments***

5. Applicant's arguments filed 12/01/03 have been fully considered but they are not persuasive.

*Applicant argued that the Examiner alleges that it would have been an obvious substitution of functional equivalent to substitute the binder method of Piltz et al. with heat-welding method of Anderson et al." The applicant disagrees. In the Piltz et al. patent, the two plastic sheets are not connected to each other directly, but are indirectly connected through an aluminum foil 13. Also, as clearly shown in the figures, the purpose of the Piltz et al. patent is to attach the plastic films to the other components of the structure along extensive areas of the respective surfaces. Thus, there is nothing disclosed in the Piltz et al. patent that would suggest to a person skilled in the art to replace the binder layers by simple heat-welding along peripheral portions of the plastic sheets. Further, in order to join the peripheral portions of the plastic films by heat-welding, as in Piltz et al., the aluminum layer therein disclosed would have to be removed. Thus, "heat-welding" as in applicant's claims would not be an obvious" substitution of the binder method of the Piltz et al. patent.*



In analyzing the present invention claim 1, it is believe that the claim does not claimed the sheets are connected to each other directly as argued for the Piltz reference. The claim language only state "the sheets are joined together by heat-welding along the edges of the sheets"; therefore, even with the aluminum layer in between the sheets as taught in Piltz, Piltz invention still reads on the claimed language. Piltz teach every part of the present invention except the fact that Piltz does not employ heat-welding to join the sheets together. Instead, Piltz employ a lamination method by using heating oven and press roller assembly as stated in col. 4, lines 10-35. Piltz method does bind or adhere the sheets together at their edges. The edges are where ref. 10 does not exist, such as where refs. 13,14,15 in fig. 5 or 6 are located. At this area, refs. 13,14,15, all are adhered together because of the lamination process. The sheets are not adhered to the base because of binders 14,15 or 14',15' or foil 13 or 13', doesn't matter which embodiments fig. 5 or 6 because both teach the same concept of the base not adhering to the sheets (also, see col. 2, lines 44-50). The only thing preventing Piltz from anticipation of the instant invention is that of a heat-welding process. However, this process is so well known in the art of adhering sheets together, as demonstrated by Anderson reference, regardless of a pad or cardboard being covered by the sheets because it is the process that the Examiner is relying on to show notoriety. Therefore, it would have been an obvious substitution of functional equivalent to substitute the lamination process to adhere the binders, foil and sheets of Piltz et al. with heat-welding method of Anderson et al., since it would perform the same function; i.e. to connect two film sheets together. In addition, it would have been obvious to one

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having ordinary skill in the art at the time the invention was made to employ the heat welding process as taught by Anderson et al. to join the two flexible sheets of Piltz et al. at their edges, since it is a notoriously well known process to join two elements together.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.

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A handwritten signature in black ink, appearing to read 'Son T. Nguyen', with a stylized, flowing script.

Son T. Nguyen

Primary Examiner, GAU 3643

March 9, 2004